

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-17-90048

In re Complaint of John Doe¹

This is a judicial complaint filed on May 4, 2017, against a United States district judge who presided over the complainant’s criminal trial. The complaint alleges that the district judge held a sidebar conference with defense counsel and government counsel in which the district court excluded certain exculpatory evidence. As a result, the complainant contends that the jury deemed an expert witness “worthless.” According to the complainant, the district judge rejected his efforts to raise claims of ineffective assistance of counsel based on this exclusion of evidence. Furthermore, the complainant alleges that the district court restricted his access to case documents. The complainant also asserts that attorneys involved in the case violated their ethical obligations, although he is “[u]ncertain how to address the conspiracy between” the district judge, defense counsel, and government counsel. In his supplemental complaint, the complainant alleges that the district judge has insulted other judges and lawyers and used profane language in extrajudicial writings.

The original complaint’s allegations are “directly related to the merits of a decision or procedural ruling” and therefore must be dismissed. 28 U.S.C. § 352(b)(1)(A)(ii); *accord* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(B); *see also* J.C.U.S. Rule 3(h)(3)(A) (“An allegation that calls into question the correctness of a

¹Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit, the names of the complainant and the judicial officer complained against are to remain confidential, except in special circumstances not here present.

judge's ruling . . . without more, is merits-related.”). To the extent the original complaint implicates attorneys, the rules only apply to federal circuit, district, bankruptcy, and magistrate judges. 28 U.S.C. § 351(a), (d)(1); *see also* J.C.U.S. Rule 4. As to the original complainant's bare, speculative allegation that the district judge conspired with defense counsel and government counsel, such allegation “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); *accord* J.C.U.S. Rule 11(c)(1)(D). With regard to the supplemental complaint's allegations, none concern “[c]ognizable misconduct.” *See* J.C.U.S. Rule 3(h).

The complaint is dismissed.

August 29, 2017



Lavenski R. Smith, Chief Judge
United States Court of Appeals
for the Eighth Circuit